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SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,848	02/22/2002	Michael Musarella	87185-3300	7571

28765 7590 11/04/2004

WINSTON & STRAWN  
PATENT DEPARTMENT  
1400 L STREET, N.W.  
WASHINGTON, DC 20005-3502

EXAMINER
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ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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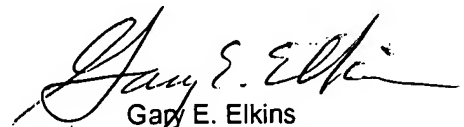
20041101

DATE MAILED:

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Commissioner for Patents

See the attached pages.

  
Gary E. Elkins  
Primary Examiner  
Art Unit: 3727



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Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 8/10/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☒ C. Other Location of replacement paragraphs not clearly indicated. (see attached page)
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☒ 3. Amendments to the drawings: Drawing sheets not labeled as "Replacement sheet" and "Annotated sheet". (see attached page)
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Telephone No.

***Notice of Non-compliant Amendment***

Effective 30 July 2003, amendments filed under 37 CFR 1.121 must be filed using the following rules:

When there is an amendment to the specification, the location of the paragraph or section to be deleted, replaced, or where a new paragraph or section is to be added, must be unambiguously identified. Text of a new paragraph or section should not be underlined. Deletion of a paragraph or section must only include an instruction to delete, and the location of the paragraph or section. A replacement paragraph or section must be a marked-up version showing the changes. A clean version of any replacement paragraph or section must *not* be submitted in addition to a marked-up version, except when applicant submits a substitute specification.

The current amendment does not properly identify where the replacement paragraphs are located. The amendment identifies the paragraphs as “[0069]” and “[0076]”. However, the original specification as filed does not identify the paragraphs by numbering.

When there is an amendment to the drawings, the amendment must include a replacement drawing sheet showing the amended figures which include the desired changes, without markings, on a separate sheet in compliance with 37 CFR 1.84; and an explanation of the changes in the remarks. A replacement drawing sheet must be identified in the top margin as “Replacement Sheet”, a new drawing sheet must be identified in the top margin as “New Sheet” and an annotated drawing sheet must be identified in the top margin as “Annotated Sheet”. Replacement drawing sheets with changes are accepted by the examiner, unless otherwise notified by the examiner. No further drawing submission is required.

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The current amendment does not identify the replacement sheet and the annotated sheet in the top margin as required.

It is noted that the current amendment practice is being strictly enforced insofar as many of the changes which were previously entered via a docket clerk are now being performed when an application goes to printing. As such, the Printer must be clear as to what changes are being made to avoid errors within the issued patent.